

ARNHEM, 22nd. September 1948.

NETH. 17.

IN THE NAME OF THE QUEEN.

The Special Court at Arnhem has passed the following sentence in the case of the Chief Prosecutor against:

AUGUST LOUIS WILHELM AHLERICHT,

born 1st February 1900 in HERBERHAUSEN (Ger),
former Sturmscharführer in the Sicherheits-
dienst,
living at TUSZMANNSTRASSE 3, DÜSSELDORF,
now in custody in Arnhem prison,

Accused.

The Special Court;
In view of the investigation at the sitting;
Having heard the demand by the Chief Prosecutor;
Having heard the accused, assisted by Dr. G.F. SCHADD,
barrister, Arnhem;

Considering that the accused has been charged that he in the Netherlands, during the time of and in connection with the war of aggression begun by Germany on 10th May 1940 against the Kingdom of the Netherlands and before 15th May 1945, as Sturmscharführer in the Sicherheitspolizei, at anyrate employed in some function with or by a German police organ, at anyrate in the military, state or public service of or with the German enemy, intentionally, contrary to the laws and customs of war and/or of humanity;

- a) in or about January 1944, in the municipality of EDE, intentionally killed JOLIS BUDDINGH, arrested by him, accused, in his above function, in that he intentionally and from a short distance, without there being any reason or grounds for so doing, fired several shots from a loaded firearm at BUDDINGH thereby hitting him in the back, at anyrate in the body, and thus wounding him fatally, as a result of which BUDDINGH died shortly after;
- b) in or about the autumn of 1944, in the neighbourhood of BARCHEN, in order to force J.H. KESSELER to give information of facts which he, accused, either knew or suspected were known to KESSELER and which were of interest to him, the accused, in his above function, together with one or more others, at anyrate alone, intentionally ill-treated J.H. KESSELER who was an arrestee in the power of the German Sicherheitsdienst, violently striking him on his body with a bit of thick rope, at anyrate with a hard object and/or his hand(s) and/or kicking him on the body with his boot(s) (feet), thereby causing KESSELER pain and as a result of which he, KESSELER, died;
- c) in or about the period from May 1942 to May 1945, in the neighbourhood of Arnhem, at anyrate in Gelderland, in order to compel the persons mentioned below to give information of facts which he, accused, knew or suspected were known to these persons and which were of interest to him in his above function, together with one or more others, at anyrate alone, intentionally ill-treated various persons, among whom were KLEIN-BUSSINK, W.C. van de GOOR, L.C.J. MASSOUR, MAARTEN ROOS and Th. C. WEETINK, at anyrate one or more of them, who

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were (was) arrestee/s (an arrestee) in the power of the German Sicherheitsdienst, violently striking them (him) on the body with a hard object and/or his hand(s) and kicking them on the body with his booted foot (feet), whereby these persons (this person), were (was) caused pain;

Considering with regard to that charged under (a), that the accused has stated at the sitting: that during the time of the German occupation in the Netherlands an attack was made on the Marechaussée official STAP; that in connection with this he then, as Sturmscharführer in the Sicherheitspolizei, went to PUTTEN with an S.D. commando; that he there interrogated the perpetrator of the attack; that the latter named BUDDING, cigar manufacturer at VEENENDAAL, as being one of the instigators of the attack; that he thereupon went to VEENENDAAL with his commando; that at the police station there he got the address of various people living at VEENENDAAL whose name was BUDDING; that accompanied by the witnesses van RIESSEN and WIELSMA and some members of his commando, he went off to search for the wanted person; that he first arrested a person called BUDDING and in the police station got the latter to make a statement; that he thereupon arrested the witness ARIE BUDDING who told him that another BUDDING also lived in the same street; that he then went to this BUDDING's house in Gelders Veenendaal, municipality of Ede, taking the said ARIE BUDDING, under escort of witness Van RIESSEN, with him; that having arrived at the house in question he had this surrounded; that he stationed himself between the passage at the side of the house and the front door; that the S.D. man WITT was posted on a wall at the end of the passage, while the witness ARIE BUDDING was placed under the guard of one of the two Netherlands policemen, Van RIESSEN or WIELSMA; that he then rang the front door bell; that after some time a man came out of the house who said he was called JOLIS BUDDING; that by his, accused's orders this man first lay down on the ground for a few moments and then was ordered by him to get up and go to the back of the house; that then while the man was walking along the passage he, accused, shot in the man's direction with a loaded pistol; that a short time later he saw this man lying in the kitchen of the house in question; that the man was then wounded; that he then very well knew and understood that to shoot at and thereby wound and kill an already arrested or to be arrested person without any grounds or cause was contrary to the laws and customs of war and of humanity;

Considering that the following witnesses have declared at the sitting of the Court;

PIETER ELIAS VAN RIESSEN:

that during the night of 13th-14th January 1944 he was ordered by telephone to go to the police station at VEENENDAAL to render assistance; that when he arrived at the police station he met witness WIELSMA and three members of the S.D., among them the accused.

The latter informed him he was to help with the arrest of a certain BUDDING who was suspected of having ordered an attack on a Marechaussée official and the exact address of whom the accused did not know; that by accused's orders he then went over the card index which was in the police station; that the accused noted down from it some addresses of persons of the name BUDDING; that the accused then, accompanied by him, witness, the two other S.D. men and witness WIELSMA, went to the house of witness ARIE BUDDING in the BUURCLAAN in GELDERS VEENENDAAL, EDE municipality; that this A. BUDDING was then arrested by the accused; that taking ARIE BUDDING with them they went to JOLIS BUDDING's house which was in the same street; that on arriving there accused gave orders

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to surround the house; that at the side of the house there was a passage 6 m. wide and about 10 m long; that this passage was separated from the neighbouring courtyard by a 1 m high fence; that the passage ended in a wall on which one of the S.D. man was posted; that witness himself, together with the hand-cuffed ARIE BUDDING, was posted close to the front door and the entrance to the passage; that after this posting had been done accused rang at JOLIS BUDDING's house; that after some time the latter came out into the passage; that accused ordered him to lie down on the ground which JOLIS BUDDING did; that a few seconds later accused ordered him to stand up again, at the same time kicking him on the head and in the stomach, and then ordered him to go to the back of the house; that BUDDING went off in that direction at a quiet pace; that when BUDDING was about 1 1/2 m. away and still walking at the same quiet pace the accused, without any previous warning, fired some shots from his revolver in the direction of JOLIS BUDDING; that BUDDING fell down immediately after this and then crept in the direction of his house where he reached the kitchen; that there was no question of BUDDING's having made any movement which would show that he wanted to escape; that at the time the accused shot witness was about 1/2 m away from him and clearly saw the flashes from accused's weapon go in JOLIS BUDDING's direction; that nobody else shot then;

SIPKE WIELSMA:

that on the night of 13th-14th January 1944 he and three members of the S.D., among them accused, by the latter's orders and accompanied by witness Van RIESSEN, who took along with him the hand-cuffed ARIE BUDDING who had been previously arrested, went to JOLIS BUDDING's house in GELDERS VEENENDAAL; that when they arrived there accused gave orders to surround the house; that accused himself took up a position by the front door; that next the house was a passage with a wall at the end of it, while it was separated from the adjacent courtyard by a 1m. high fence; that the passage was about 6m. wide and 10m. long; that one of the S.D. men stood posted on the wall referred to, while Van RIESSEN and his arrestee ARIE BUDDING, were stationed between the front door and the entrance to the passage; that witness himself had taken up his stand in the passage; that accused then rang whereupon JOLIS BUDDING came outside; that accused ordered him to lie down on the ground which BUDDING did; that accused then shouted out something; that just after this witness saw JOLIS BUDDING, walk at a quiet pace in the direction of the back of the house; that at the same time, he, witness, heard and saw shots, fired directly after each other, come from accused's direction; that no other shots were fired then; that he then saw accused and one of the S.D. men go into the kitchen; that he followed them and saw JOLIS BUDDING lying on the kitchen floor; that witness loosened BUDDING's clothing and saw that the latter had at least two wounds in his back just above the right hip; that witness then went to call Dr. KETS, a doctor in VEENENDAAL;

ARIE BUDDING:

that on the night of 13th-14th January 1944 he, in company with accused, witnesses van RIESSEN and WIELSMA, and a couple of S.D. men, was near JOLIS BUDDING's house in GELDERS VEENENDAAL, EDE municipality; that he himself had been arrested some moments before and hand-cuffed, was being guarded by witness VAN RIESSEN; that he and Van RIESSEN stood 1 to 2 m. away from the accused; that after accused had thumped on the front door JOLIS BUDDING came out; that accused then ordered him to lie down on the ground which JOLIS did; that accused then ordered him to stand up and to go to the back of the house; that JOLIS stood up and went off in the notified direction at a quiet pace; that when he was about 1 m. away from the accused the latter fired about 4 shots one after

the other; that he, witness, saw the flashes go in JOLIS' direction; that the latter immediately fell and then crept on in the direction which had been ordered; that nobody except the accused fired;

ELSJE VAN BEEK, widow of JOLIS BUDDING:

that on the night of 13th-14th January 1944 she was awakened in her house in GELDERS VEENENDAAL because there was a ring at the front-door; that her husband, JOLIS BUDDING, went downstairs; that she herself also went down a little time later; that having arrived downstairs she heard shots go off outside; that just after this her husband came creeping into the house; that she saw he was wounded; that he stood up and then fell against the table; that the accused and witness WIELSMA came in just after her husband; that she heard her husband say:

"I was not wanting to run away and I am not going away either;" that accused had a pistol in his hand; that he behaved very sharply to her and her children; that he said to her children ^{to go} "Go off to your bed"; that Dr. KETS then came and by his orders her husband was put into an ambulance;

JAN HERMAN KETS, medical practitioner (appearing also as an expert): that one night in January 1944 he was called by police-constable WIELSMA to give help to JOLIS BUDDING, living in the BUURTLAAN, GELDERS VEENENDAAL, municipality of EDE; that on arriving at the latter's house he saw him lying in the kitchen; that he examined him and found that he had wounds (at least two) in the lower part of his back, obviously caused by bullets from a firearm; that he took him in a car to the hospital; that BUDDING died on the way as a result of the said shot wounds which had caused internal bleeding;

Considering with regard to that charged against the accused under (b), that the Special Court does not deem this proved so that the accused must be acquitted thereof;

Considering with regard to that charged under (c), that the following witnesses have declared at the sitting:

WOLFFERT CORNELIS van de GOOR:

that on 10th February 1944 he was arrested by order of the Sicherheitspolizei for having warned people by telephone who were in danger of being arrested by the said Sicherheitspolizei; that he was shut up in the Huis van Bewaring (detention prison) in ARNHEM; that the same day he was taken by the S.D. man KUHNERT to an interrogation cell where KUHNERT put him in handcuffs which were nailed to the wall; that KUHNERT and the accused then interrogated him; that they required him to acknowledge the above mentioned warnings; that when he, witness, denied them the accused deliberately struck him with his fist and the flat of his hand on the face, which blows caused him considerable pain; that accused then deliberately punched him a number of times in the region of the heart; that this caused him to fall and he remained hanging on the handcuffs; that in this position the accused deliberately kicked him in the side; that when he still would not confess KUHNERT and the accused laid him across an office table, fixing his handcuffed hands to this table; that in this position accused deliberately gave him a number of heavy blows on the head and thighs with a sort of rubber truncheon made of twisted wire and rubber; that this interrogation, during which KUHNERT also repeatedly struck him, lasted about an hour; that he still went on denying; that all the aforesaid blows, kicks and punches caused him considerable pain; that he was so knocked about by the ill-treatments referred to, which took place at ARNHEM, that when his mother, met him two months later she did not recognise him;

LOUIS CHARLES JEAN MASSEUR:

that in 1944 he was employed in the Huis van BEWARING in ARNHEM; that

that he belonged to an illegal group and made it his business to question people who had been with the Sicherheitspolizei for an interrogation and had been back to the HUIS VAN BEWARING, in order to see whether they had perhaps mentioned the names of other illegal workers so that he might possibly be able to warn these; that in this way after a certain HOOTSEN had been heard by the Sicherheitspolizei and told him of four people's names he had mentioned to the Sicherheitspolizei he, witness, warned these people; that he was thereupon arrested on 8th February 1944 in the said HUIS van BEWARING and taken by the S.D. man KUHNERT to the Sipo building in the same place; that KUHNERT then questioned him about the said matter and when he would not confess to it ill-treated him frightfully; that when KUHNERT's interrogation produced no results, as neither did that which followed it and which was undertaken by the Sipo man GEBAUER, KUHNERT entered the interrogation room with the accused; that KUHNERT pointing at witness said; "There is the filthy bit of dirt who has spoiled the whole show"; that accused then questioned him about the same affair; that he, witness, would not confess, whereupon the accused and KUHNERT grabbed him and beat and kicked him about the room, all of which hurt him and by which his nose was caused to bleed.

MAARTEN ROOS:

that on 8th February 1943 he was arrested by the Sicherheitspolizei in ARNHEM after he, as an illegal worker, had been caught in the act when trying to free another illegal worker from the prison in ARNHEM; that on 9th October 1943 he was taken to the Sipo building in ARNHEM that he was there kicked into it by the two Sipo men who had brought him, being caught by the accused who, while his, witness, hands were bound, deliberately punched him a number of times on the back; that he was then taken by the accused to the latter's room and questioned by him about the above-mentioned affair; that when this produced no results some of the Sipo men beat, thumped and kicked him about the room; that at a certain moment the accused began to rave; that he grasped a rubber truncheon and deliberately beat witness to such an extent that he collapsed unconscious; that after he had been brought round with water he was put across a writing table, his hands handcuffed; that the Sipo men Van de Berg and KUHNERT held him and accused then gave him a number of hard blows on his body with a rubber truncheon; that during all this ill-treatment he fainted about seven times, that through pain and fright he filthied himself thoroughly and when it was all over saw that through the said blows with the truncheon his shirt and under pants were in shreds and covered with blood;

THEODORUS GERARD WEETINK:

that in 1944 he was employed doing illegal work, that he was arrested by members of the Sicherheitspolizei in DOESBURG on the night of 21st -22nd January of that year; that the Sipo man WAMELINK, also present, showed him some N.S.B. badge pins which had been found in his, witness, room and which he used when doing his illegal work; that he was then taken to the Sipo building in ARNHEM; that he was received there by the accused who said "Ha, there is WEETINK; I expect you know why you have been arrested"; that he, witness, said he did not know, whereupon the accused deliberately gave him several blows on the face with one of his fists, this causing him a great deal of pain;

ANTONIUS HENDRIKUS WIFBE:

that from 1st August 1944, having been detached by the S.D. as a police official, he worked for some time in ARNHEM in the counter illegality section, which section was under the accused; while serving in this section he several times heard from others that when conducting interrogations accused often acted vigorously against his suspects and did not refrain from ill-treating them;

that accused was known in the S.D. as being someone who threw himself heart and soul into it and got everything out of those being questioned by him which it was possible to get, and that this sometimes occurred through not very reputable methods;

PETRUS JOSEFUS WAMELINK:

that from May 1943, as a State Police detective detached by the Sicherheitspolizei, he worked in ARNHEM in the section which was under the accused; that this section dealt with sabotage, attacks on ration offices, in short, it fought the illegal movement; that accused used the following methods at interrogations; if he was certain that the suspected person was guilty and the latter would not confess, the so-called "Verschärfte Vernehmung" (3rd degree) was employed, that is to say, the suspected person was ill-treated during the interrogation; that he was present at witness WGETINK's interrogation; that accused was in charge of this; that accused deliberately gave WGETINK a blow on the face with his hand;

JACOB GRIN:

THAT from 12th October 1941 till the end of March 1945 he was detached as a State detective by the Sicherheitspolizei in ARNHEM, being among other things in the counter-illegality section which was under the accused; that at the end of 1942 or beginning of 1943 he was in the S.D. building in ARNHEM; that he entered the accused's room and there saw the accused and a certain ANTON KLEINBUSSINK from DEVENTER; that the latter had just been brought into the room to be interrogated; that his hands were fastened behind his back; that accused placed himself right in front of KLEIN-BUSSINK and said to him: "Will you now say it? "to which KLEIN-BUSSINK replied: "I don't know anything about the matter"; that accused then with a clenched fist gave KLEIN-BUSSINK such a blow in the face that the latter was felled to the ground; that it was generally known among the S.D. men that the accused did not scruple to ill-treat those persons being questioned by him;

CARL EMIL RAPPAARD:

that from 15th October 1943 till the beginning of May 1945 he worked as a police employee with the Sicherheitsdienst in ARNHEM; that the accused was already working with the Sicherheitspolizei on the first mentioned date; that the accused was the head of the "Widerstand Organisation", that is, the section fighting the illegality; that the following S.D. men worked under him in this section; KOHNERT, WAMELINK, BUYINK and/der ELST; that he, witness, several times fetched prisoners who had been interrogated by the accused from the latter's room and took them to the cells in the S.D. building in ARNHEM; that when doing this he several times saw that these prisoners had been ill-treated, for example there was a black eye, swollen lip, blood flowing from the face and so on; that in VORDEN or WARNSVELD he had seen accused give a man a blow in the face;

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Considering that the accused has stated at the sitting of the Court:
that he admits having given KLEIN-BUSSINK, mentioned in the citation a blow in the face when interrogating him about his illegal work; that at the period mentioned in the writ he knew that ill-treating people during an interrogation regarding their case, such as the witnesses heard at the sitting said they had undergone, was contrary to the laws and customs of war and to humanity;

-Considering.

Considering that on the grounds of the facts and circumstances appearing in the above evidence which produce an equal number of causal facts and circumstances upon which rests the decision to be announced further on, the Court unanimously deems proved and is convinced that the accused committed that with which he has been charged under (a) and (C) on this understanding that he: in the Netherlands, during the time of and in connection with the war of aggression begun by Germany on 10th May 1940 against the Netherlands and before 15th May 1945, as Sturmscharführer in the Sicherheitspolizei, intentionally, contrary to the laws and customs of war and of humanity:

- a - in January 1944, in the municipality of EDE, intentionally killed JOLIS BUDDING, arrested by him, accused, in his above function, in that he intentionally and from a short distance, without there being any reason or grounds for so-doing, fired several shots from a loaded firearm at BUDDING thereby hitting him in the back and thus wounding him fatally, as a result of which BUDDING died shortly after;
- c- in the period from May 1942 to May 1945, in GELDERLAND, in order to compel the persons mentioned below to give information of facts which he, accused, knew or suspected were known to these persons and which were of interest to him in his above function, intentionally ill-treated various persons, among whom were KLEIN-BUSSINK, W.C. van de GOOR, L.C.J. MASSOUR, MAARTEN ROOS and Th.C. WEETINK who were arrestees in the power of the German Sicherheitsdienst, violently striking them on the body, partly with a hard object and partly with the hand, and partly kicking them on the body with his booted foot, whereby these persons were caused pain;

Considering that it must be accepted that when a police official belonging to and employed in the German occupation shoots and person arrested by him during an investigation concerning an act, even was this committed against the German occupation, this shooting as has been established taking place without the arrested person having given any cause for it by his behaviour or that any other grounds for it can be considered to have been present, this police official by so doing acts contrary both to the laws and customs of war as well as to humanity, while it must also be accepted that the accused, who held the position of Unterscharführer in the Sicherheitspolizei and thus had a leading function, must have known this, as in fact he has acknowledged that he did;

Considering that the same also holds good with regard to the ill-treatments committed by the accused which have been declared above as proved, which ill-treatments he carried out on defenceless prisoners with the sole object of by force getting statements out of them which he considered necessary or desirable in the interest of his investigation;

Considering further that under (a) in the indictment the victim's name was wrongly given in places as BUDDINGH which should be BUDDING, but that in the opinion of the Court this is due to a typing error which the Court here corrects, the accused not being thereby prejudiced in his defence;

and (c) Considering that that charged against the accused under (a) ~~or anything more or otherwise charged against him~~, has not been proved ~~except in so far as~~ has been declared proved above, so that he must be acquitted of the same;

F further or otherwise than

-Considering-

Considering that what has been declared proved constitutes the crime of:

" During the time of the present war but before 15th May 1945, in the military, state or public service of or with the enemy being guilty of any war crime or any crime against humanity as expressed in article 6 under (b) and (c) of the Charter of the London Agreement of 8th August 1945, promulgated by Royal Decree of 4th January 1948 (Statute Book no. G 5), committed several times, which crimes also comprise the elements of acts punishable according to Netherlands law:"

provided for and made punishable by art. 27a of the Special Penal Law Decree;

Considering that the crimes qualified above comprise the elements of the following acts punishable according to Netherlands law:

under (a), that of HOMICIDE, committed during the present war but before 15th May 1945, whereby the perpetrator made use of the power, opportunity or means offered him by the enemy or by the fact of the enemy occupation, made punishable by article 287 of the Penal Code in conjunction with 1 and 11 of the Special Penal Law Decree;

under (c), that of ILL-TREATMENT, committed several times during the present war but before 15th May 1945, whereby the perpetrator made use of the power, opportunity or means offered him by the enemy or by the fact of the enemy occupation committed several times, made punishable by article 300 of the Penal Code in conjunction with 1 and 11 of the Special Penal Law Decree;

Considering that in the unanimous opinion of the Court the accused is therefore guilty, no circumstance of any kind having appeared which would remove or exclude his liability to punishment;

Considering in respect to the fact that the accused does not consider himself punishable with regard to that charged under (a), because he was forced to shoot at JOLIS BUDDING as the latter made an attempt to escape, at anyrate by his behaviour gave the reasonable impression of wanting to escape, that the Court rejects this defence as being completely at variance with the facts established at the trial, it having been definitely shown by witnesses Van RIESSEN, WIELSMA and A. BUDDING, who were all in the immediate neighbourhood of the accused and J. BUDDING, that neither fact was the case, which declaration the Court does not consider rebutted by the statement of witness DENNER who was at a fair distance away from the accused and JOLIS BUDDING;

Considering with regard to the penalty to be imposed that the Court judges that only the most severe punishment must be inflicted on this accused who during the war had a leading position in the Sicherheitspolizei in Arnhem and the surrounding districts, and in this capacity, without any reason or cause, shot dead an arrestee when nothing had as yet appeared/exercising his office was repeatedly guilty of ill-treatments committed on defenceless prisoners which were contrary to every conception of humanity;

*Appraised as to
the latter's guilt,
and who, moreover,
when*

Considering that the fact ^{that} certain witnesses à décharge have stated that they were not ill-treated by the accused during their interrogation does not detract from this;

In view of articles 57, Penal Code and 3, Special Penal Law Decree;

Administering the Law:

Declares the accused guilty of the crimes qualified and declared proved above and that he is therefore punishable;

Sentences the accused on their account to: DEATH:

Declares not proved that with which the accused has been more or otherwise charged than as has been declared proved above;

Acquits him of this.

Sentence passed by:

Dr. C. van NIEVELT
Dr. W. VOS
Lt. Col. A.C. HOUTMAN

Vice-President
Legal Judge
Military Judge

in the presence of:

Dr. J.W. van BEK

Deputy Clerk of the
Court,

and pronounced at the public sitting of the afore-said
Special Court, 22nd September 1948.

S/J.W. van BEK

s/ Van NIEVELT
VOS
A.C. HOUTMAN